

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6791 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JASHWANTSING BHAGWATSING ZALA

Versus

AHMEDABAD MUNICIPAL CORPN

Appearance:

MR KS ACHARYA for Petitioner
None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 12/03/98

ORAL JUDGMENT

The petitioner, a Driver of the Ahmedabad Municipal Corporation, by this Special Civil Application challenges the award of the Labour Court at Ahmedabad passed in Reference (LCA) No.1306 of 1981 dated 28th August 1986, under which the Labour Court has directed the Corporation to reinstate the petitioner back in the services, however, without backwages. So challenge is

made of this award only to the extent where it relates to denial of backwages to the petitioner.

2. The learned counsel for the petitioner contended that the Labour Court has committed serious illegality in denying the back wages to the petitioner.

3. I have given my thoughtful considerations to the submissions made by learned counsel for the petitioner.

4. The petitioner was dismissed from the services of the Corporation after the misconduct which was alleged against him was found proved in the departmental enquiry. The petitioner raised industrial dispute which has been referred to the Labour Court by the Government for adjudication. Before the Labour Court, the petitioner admitted as a fact that the departmental enquiry which has been held against him was fair and reasonable. So the enquiry has been accepted to be fair and reasonable by the petitioner. The Labour Court has also found as a fact that it is not a case of any victimization of the petitioner. The Labour Court has only interfered in the matter on the question of quantum of punishment and the punishment of dismissal given to the petitioner was considered to be disproportionate to the misconduct alleged against the petitioner. The punishment of dismissal given by the Corporation to the petitioner has been substituted by the Labour Court by punishment of withholding backwages. So it is not the case where the petitioner has been denied backwages without any cause or justification. It is a case where the Labour Court has considered the punishment of dismissal of the petitioner's services given to him by the Corporation to be excessive and it has been substituted by penalty of withholding the backwages. So the backwages have been withheld by the Labour Court by way of penalty. In view of this fact, I do not find any illegality in the award of the Labour Court. The Labour Court has taken a lenient view in this case. Otherwise, looking to the misconduct alleged against the petitioner, dismissal would have been the only penalty. However, the award has not been challenged by the Corporation. Looking to the facts and circumstances of the case, I do not find any ground to interfere with the award of the Labour Court.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

.....

(sunil)